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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/523,157

01/27/2005

Takashi Hoshino

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07/26/2006

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EXAMINER

GRAHAM, GARY K

ART UNIT

PAPER NUMBER

1744

DATE MAILED: 07/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/523,157

Applicant(s)

HOSHINO, TAKASHI

Examiner

Gary K. Graham

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/27/05 & 4/7/06</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2 and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 2, line 4, there is no antecedent basis for “the radius of curvature”.

In claim 7, line 1, use of “the” holder piece appears confusing as multiple holder pieces have been set forth in claim 1. Which holder piece is being referenced.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Constantine (GB patent 427,383).

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The patent to Constantine discloses the invention as is claimed, including a curved wiper blade (fig.3) for mounting to a wiper arm (b, figure 1) to wipe a window glass surface (A). The wiper blade includes a blade rubber (a) supported by holder pieces (a2) which are interconnected in the longitudinal direction by an elastic member (a1).

With respect to claim 2, it is noted that the window glass surface is not part of the claimed wiper blade. Therefore, comparisons of the holder piece assembly with the glass surface do not act to distinguish the assembly from Constantine. Further, in view of the elastic members biasing the holder pieces into a curved state, it appears the holder piece assembly will have a smaller radius of curvature than the glass surface as is claimed. If such were not that case, the blade rubber would not be in full contact with the glass surface when placed thereon.

Claims 1, 2, 4, 5 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Scinta (US patent 2,616,113).

The patent to Scinta discloses the invention as is claimed, including a curved wiper blade (fig.1) for mounting to a wiper arm (4) to wipe a window glass surface (2). The wiper blade includes a blade rubber (7) supported by holder pieces (8,9) which are interconnected in the longitudinal direction by elastic members (12) positioned by auxiliary members (10).

With respect to claim 2, it is noted that the window glass surface is not part of the claimed wiper blade. Therefore, comparisons of the holder piece assembly with the glass surface do not act to distinguish the assembly from Scinta. Further, in view of the elastic members biasing the holder pieces into a curved state, it appears the holder piece assembly will have a smaller radius of curvature than the glass surface as is claimed. If such were not that case, the blade rubber would not be in full contact with the glass surface when placed thereon.

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With respect to claim 7, note figure 3 which shows the holder piece with a holding claw engaging the blade rubber (7).

Claims 1, 2 and 4-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Wright (US patent 4,976,001).

The patent to Wright discloses the invention as is claimed, including a curved wiper blade (figs. 24, 25) for mounting to a wiper arm (33) to wipe a window glass surface. The wiper blade includes a blade rubber (11) supported by holder pieces of spine (13) which are defined by grooves (20). The holder pieces are interconnected in the longitudinal direction by elastic members (66, 68) positioned by auxiliary members (65,69).

With respect to claim 2, it is noted that the window glass surface is not part of the claimed wiper blade. Therefore, comparisons of the holder piece assembly with the glass surface do not act to distinguish the assembly from Wright. Further, in view of the elastic members biasing the holder pieces into a curved state, it appears the holder piece assembly will have a smaller radius of curvature than the glass surface as is claimed. If such were not that case, the blade rubber would not be in full contact with the glass surface when placed thereon.

With respect to claim 6, note that the holder pieces do taper gradually from right to left.

With respect to claim 7, note the claw defined by groove (12).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wright (US patent 4,976,001).

The patent to Wright discloses all of the above recited subject matter with the exception of the holder pieces being integrally molded with the elastic member.

Wright does disclose general co-molding of the biasing means (85) with base member (81) in a generic article (fig.31) which includes a spring member. Wright discusses that the biasing means can be a separately constructed member or can be molded together with the base member.

It would have been obvious to one of skill in the art to make the figure 24 or 25 embodiment of Wright wherein the biasing means and spine/base are molded together, as taught by Wright, to provide an integrated structure that would prevent inadvertent separation of components.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

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Claims 1, 3 and 4 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 2 of copending Application No. 10/548,301. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claim of the '301 application fully anticipate the claims of the instant application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary K. Graham whose telephone number is 571-272-1274. The examiner can normally be reached on Tuesday to Friday (6:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys J. Corcoran can be reached on 571-272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Gary K. Graham", with a long horizontal stroke extending to the left.

Gary K Graham
Primary Examiner
Art Unit 1744

GKG
23 July 2006